IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3955 OF 2005
IN
CRIMINAL APPEAL NO. 588 OF 2005

Shri Hari Pundlik Mahajan ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

Mr.Ramrao Adik, Senior Advocate with S.R.Chitnis, Sr. Advocate with S.D. Kadam for the Applicant.

Mrs. V.R. Bhosale, APP for the Respondent State.

CORAM : D. G. DESHPANDE
S. A. BOBDE, JJ.

DATED : 18TH JULY, 2006.

P.C.:

1. Heard Mr. Chitnis, Senior Advocate for the applicant and Mrs. Bhosale, learned APP for the State.

2. This is an application for bail by the accused who has-been convicted for murdering his wife and sentenced to imprisonment for life. Mr. Chitnis contended that findings of the court about homicidal death are perverse and the trial court observed at one place that the deceased wife died in mysterious circumstances. The trial court had no material to come to the conclusion that the deceased died a homicidal death. Further according to Mr. Chitnis strangulation

by hanging rules out the case of homicidal death and that there was no evidence to show that the accused was present at his house at the time of the murder and that the trial court relied upon certain statements made by the accused in his bail application and therefore, according to him the judgment of conviction is perverse and the accused is entitled for bail.

3. We consider the submissions of Mr. Chitnis. Shilabai, the deceased was found dead at a distance of about 150 feet from her house. The death was caused by strangulation. Her body was found lying on the ground. There was nothing to suggest that it is a case of hanging. The accused and Shilabai were sleeping in the house on that night and therefore, as rightly observed by the trial court, it was for the accused to explain how and in what circumstances Shilabai died.

4. The learned counsel for the accused Mr. Chitnis tried to contend that Shilabai might have gone to answer the call of nature and might have been murdered by somebody else. This argument is far-fetched. Ordinarily, one would not go to answer the call of nature at about 1.30 at mid-night. Secondly, no woman would go alone. She would take somebody from her house and that is the practice in the villages. The accused

had a strong motive because though he was married with Shilabai, for 17 to 18 years their relations were not at all cordial. There were proceedings under section 125 of the Cr.P.C. and under section 498-A of IPC. They were compromised only two years before and Shilabai was brought back by the accused. It is found in the post-mortem report that there were other injuries on the person of Shilabai. They were 6 to 7 days old. From those injuries, the trial court concluded that Shilabai was assaulted and beaten up by the accused. Those injuries are not likely to be caused by fall. The manner in which Shilabai died also rules out the case of suicide. No woman would commit suicide by strangulating herself at a distance of 150 feet or near-about from her house. The rope by which strangulation was caused was recovered at the instance of the accused. Trachea was found crushed and the doctor has opined that crushing of trachea is possibly due to manual strangulation by a force with ligature. The ligature mark was not found extending obliquely, which is generally found in a case of hanging. There was no associated signs of self defence around the ligature mark.

5. The defence of the accused was that the death was due to strangulation by rope with which cow was tied. This is totally false, bogus and un-natural

defence raised by the accused. What Shilabai had to do with the cow which was tethered, at such an odd hour of the night, is not at all explained. If at all this had happened there would have been other injuries on the body of Shilabai, which would have been fresh. Nothing was there.

6. For all these reasons, this is not a case for bail. Hence, the application for bail is rejected.

(D.G.DESHPANDE,J)

(S.A. BOBDE, J)

.....